



U.S. Department of Justice

Rachael S. Rollins
United States Attorney
District of Massachusetts

Main Reception: (617) 748-3100

John Joseph Moakley United States Courthouse
1 Courthouse Way
Suite 9200
Boston, Massachusetts 02210

September 16, 2022

Scott Lauer, Esq.
Assistant Federal Public Defender
Federal Defender Office
51 Sleeper Street, 5th Floor
Boston, MA 02210
scott_lauer@fd.org

Re: United States v. Devin Smith

Dear Mr. Lauer:

Pursuant to Section 10 of the Plea Agreement dated February 18, 2022, the United States Attorney for the District of Massachusetts (“the U.S. Attorney”) and your client, Devin Smith (“Defendant”), agree to supplement the Plea Agreement dated February 18, 2022, solely to incorporate the following additional language to Section 4:

“The parties further agree, pursuant to USSG § 5K2.21, that the Court, in imposing a sentence, should consider the Defendant’s uncharged misconduct with respect to the filing of two fraudulent Paycheck Protection Loan applications. The first loan application was made by the Defendant on or about April 10, 2020 in the name of a fictitious business, Capital Plus Financial, LLC, and resulted in a disbursement to the Defendant of \$20,001. The second loan application was made by the Defendant on or about April 16, 2020 in the name of another fictitious business, Fountainhead SBF LLC, and resulted in a disbursement to the Defendant of \$18,535. The parties agree that this uncharged misconduct caused total losses of \$38,536, and pursuant to 18 U.S.C. § 3663(a)(3), the Defendant agrees to pay restitution in the amount of \$38,536.”

*

*

*

If this letter accurately reflects the agreement between the U.S. Attorney and Defendant, please have Defendant sign the Acknowledgment of Plea Agreement below. Please also sign below as Witness. Return the original of this letter to Assistant U.S. Attorney Christopher J. Markham.

Sincerely,

RACHAEL S. ROLLINS
United States Attorney

By:


STEPHEN E. FRANK
Chief
Securities, Financial & Cyber Fraud Unit
SETH B. KOSTO
Deputy Chief
Securities, Financial & Cyber Fraud Unit


CHRISTOPHER J. MARKHAM
Assistant U.S. Attorney

ACKNOWLEDGMENT OF PLEA AGREEMENT

I have had this letter read to me in my native language and discussed it with my attorney. The letter accurately presents my agreement with the United States Attorney's Office for the District of Massachusetts. There are no unwritten agreements between me and the United States Attorney's Office, and no United States government official has made any unwritten promises or representations to me in connection with my guilty plea. I have received no prior offers to resolve this case.

I understand the crime I am pleading guilty to, and the maximum penalties for that crime. I have discussed the Sentencing Guidelines with my lawyer and I understand the sentencing ranges that may apply.

I am satisfied with the legal representation my lawyer has given me and we have had enough time to meet and discuss my case. We have discussed the charge against me, possible defenses I might have, the terms of this Agreement and whether I should go to trial.

I am entering into this Agreement freely and voluntarily and because I am in fact guilty of the offense. I believe this Agreement is in my best interest.

/s/ Devin Smith

DEVIN SMITH
Defendant

Date: Oct. 6, 2022

I certify that Devin Smith has had this Plea Agreement read to Defendant in Defendant's native language and that we have discussed what it means. I believe Devin Smith understands the Agreement and is entering into it freely, voluntarily, and knowingly. I also certify that the U.S. Attorney has not extended any other offers regarding a change of plea in this case.

/s/ Scott Lauer

SCOTT LAUER, Esq.
Attorney for Defendant

Date: Oct. 6, 2022